

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

POWER RESTORATION INTERNATIONAL, INC.	:	
<i>Plaintiff,</i>	:	CIVIL ACTION
	:	
	:	
v.	:	
	:	
PEPSICO, INC., et al.	:	NO. 12-1922
<i>Defendants.</i>	:	

ORDER

AND NOW, this 11th day of October, 2013, upon consideration of Defendants' Motion to Dismiss (Docket No. 9), Plaintiff's Opposition thereto (Docket No. 11), and the Defendants' reply briefs (Docket Nos. 15, 26), as well as the representations of counsel at oral argument on October 4, 2012, it is hereby **ORDERED** that Defendants' Motion is **GRANTED in part**, and **DENIED in part** as follows:

1. Defendants' Motion is **GRANTED** as to Count III, and Count III is **DISMISSED with prejudice**.
2. Defendants' Motion is **GRANTED** as to Count IV, and Count IV is **DISMISSED without prejudice**.
3. Defendants' Motion is **DENIED** as to Count I and Count II.
4. Plaintiff may file an amended complaint no later than 14 days from the date of this Order.

5. Defendants' responses to the amended complaint shall be due on or before November 1, 2013.

BY THE COURT:

S/Gene E.K. Pratter
GENE E.K. PRATTER
UNITED STATES DISTRICT JUDGE